

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HARVEY PFEIFER and U.S. POSTAL SERVICE,
MINUET STATION, Charlotte, NC

*Docket No. 00-1974; Submitted on the Record;
Issued September 7, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has more than a five percent permanent impairment of his right arm.

On November 6, 1998 appellant, then a 49-year-old letter carrier, filed a claim for carpal tunnel syndrome of the right hand and wrist, which he related to repetitive motion in sorting mail by hand. He underwent carpal tunnel release surgery on November 18, 1998. Appellant stopped work on November 17, 1998 and returned on December 2, 1998. The Office of Workers' Compensation Programs accepted appellant's claim for carpal tunnel syndrome. In a February 15, 2000 decision, the Office issued a schedule award for a five percent permanent impairment of the right wrist.

The Board finds that appellant has no more than a five percent permanent impairment of the right arm.

The schedule award provisions of the Federal Employees' Compensation Act¹ and its implementing regulation² set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999).

In an October 21, 1999 letter, the Office asked appellant's treating physician, Dr. James R. Boatright, a Board-certified orthopedic surgeon specializing in hand surgery, to describe any permanent impairment appellant had due to his accepted carpal tunnel syndrome. Dr. Boatright submitted an April 13, 1999 office note indicating that appellant was showing improvement subjectively. He had grip strength of 120 pounds on the right and 110 pounds on the left with a pinch strength of 23 pounds on the right and 22 pounds on the left. Dr. Boatright stated that appellant had a five percent permanent impairment due to weakness and a two percent permanent impairment of the hand due to subluxation of the flexor tendon.

In a November 22, 1999 memorandum, the Office medical adviser commented that, while Dr. Boatright found a five percent permanent impairment due to weakness in appellant's right arm, the strength testing did not show any weakness between the right and left arms. He concluded that there was no impairment for weakness. The Office medical adviser noted that the A.M.A., *Guides* did not provide a permanent impairment for subluxation of a flexor tendon in the hand or wrist.

The Office requested clarification from Dr. Boatright, describing the findings of the Office medical adviser. In a January 18, 1999 report, Dr. Boatright stated that the division of the transverse carpal ligament in treating carpal tunnel syndrome did not leave an entirely normal hand biomechanically. He indicated that the mild bowstringing of the flexor tendons that results biomechanically diminishes the theoretical potential strength of wrist and finger flexion. He commented that most hand surgeons assigned a permanent impairment of approximately five percent to a hand that had undergone carpal tunnel surgery.

Dr. Boatright added that appellant had frank subluxation of the flexor tendons out of the carpal canal from time to time. This condition was unusual and did not appear in the A.M.A., *Guides* because it was a rarely seen complication of carpal tunnel release. He commented that the condition probably happened because of appellant's aggressive use of his hand immediately in the postoperative period for activities such as playing golf. Dr. Boatright stated that the condition nevertheless was a complication of the surgery and warranted an additional two percent permanent impairment. He remarked that permanent impairment ratings are somewhat at the discretion of the examiner with the A.M.A., *Guides* used as just a guideline.

In a February 8, 2000 memorandum, the Office medical adviser indicated that the A.M.A., *Guides* provided an impairment rating of up to 10 percent for mild entrapment neuropathy of the median nerve at the wrist.³ He noted that, under the A.M.A., *Guides*,⁴ five percent permanent impairment of the hand equaled five percent permanent impairment of the arm.

Dr. Boatright stated that appellant had an additional two percent permanent impairment of the right hand because of periodic subluxations of the flexor tendon. The Office medical adviser disregarded that finding on the grounds that it was not covered by the A.M.A., *Guides*. While all factors that prevent normal functioning of a limb should be considered, factors that are

³ A.M.A., *Guides*, at 57, Table 16.

⁴ A.M.A., *Guides*, at 19, Table 2.

not reflected in the tables of the A.M.A., *Guides* cannot form the basis for a schedule award. The Office medical adviser therefore properly restricted appellant's schedule award to the five percent permanent impairment that could be justified on the basis of the A.M.A., *Guides*.

The February 15, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
September 7, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member